U.S. DEPARTMENT OF EDUCATION

FOIA PLAN

Wednesday, June 14, 2006

The following **Freedom Of Information Act** review and improvement plan
is required by Executive Order 13,392

U.S. Department of Education
FOIA Plan (FY 2006)

Prepared Under EXECUTIVE ORDER 13,392

A. OVERALL NATURE OF FOIA OPERATIONS

The U.S. Department of Education's Regulatory Information Management Services (RIMS) within the Office of Management (OM) serves as the **FOIA Requester Service Center**, managing centralized Freedom of Information Act (FOIA) / Privacy Act (PA) operations for requests of records maintained by 20 headquarters organizations.[1] The Director of RIMS is the official denial authority and oversees the RIMS staff.[2]

During Fiscal Year (FY) 2005, the Department received 2,416 FOIA requests (an increase of eight percent compared to FY 2004), and completed processing of 2,219 requests. Many of these requests are for sensitive, complex and voluminous records that require meticulous review and multiple consultations. Requests are processed by the FOIA Requester Service Center, staffed by 4.0 full-time FOIA personnel and 6.1 personnel with part-time or occasional FOIA duties. [3]   Fees collected during FY 2005 represent an increase of 239 percent above those collected during FY 2004.

During FY 2004, ED conducted an in-depth review and business case analysis of the full range of the Department's FOIA operations. The findings resulted in reengineered processes, customer service and training expansion, and technology improvements. In particular, the use of FOIAXpress, the most comprehensive COTS application available for processing FOIA and Privacy Act requests, is increasing productivity, decreasing administrative costs and providing an important case-tracking portal for FOIA requesters. FOIAXpress electronically stores, retrieves, redacts and prints documents for delivery to requesters; keeps track of processing statistics and fees; generates reports on the number, types and disposition of requests processed; and provides round-the-clock requester access for tracking case status. Currently, FOIAXpress is used at headquarters only.

It is our intent to propose improvements that can be implemented and measured. This relates to the timeliness of responding to FOIA requests, providing user-friendly means for requesters to determine the status of their requests, ensuring that responses are complete and accurately reflect necessary exemptions, providing accurate, timely, and reliable information for our annual FOIA report. Routinely, approximately 30 percent[4] of the total FOIA requests received by the Department seek records maintained by one or

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[1] http://www.ed.gov/policy/gen/leg/foia/contacts.html
[2] This does not include the authority to administer FOIA for documents maintained in the Office of the Inspector General, which is delegated to the Inspector General.
[3] U.S. Department of Education "FOIA Annual Report (FY 2005)"
[4] ibid

more of twelve regional offices of ED's Office for Civil Rights (OCR). To further expedite processing, this review and implementation plan proposes to delegate responsive authority to each of 12 OCR Regional Directors. It is also our intent to implement these improvements as we continue to experience increases in the number of our requests.

The Department's ultimate goal is nothing short of "best-in-class" services.

B.   AREAS SELECTED FOR REVIEW

For this report, the Department focused on the ten (10) areas noted below:

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Overall website improvement
- Increased staffing
- Politeness/Courtesy
- Automated processing – Electronic FOIA
- Multi-track processing
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

C.   NARRATIVE STATEMENT SUMMARIZING RESULTS OF REVIEW

As described in Part A ("Overall Nature of FOIA Operations"), ED's current FOIA operations reflect a broad analysis of functions and processes that yielded major results-driven improvements. Most recently, RIMS selected 10 potential performance target areas identified in Part B above which present opportunities for additional improvements. Of these, eight were chosen as the optimum mix of next steps for strengthening oversight and quality control, providing transparent accountability, and ensuring clear FOIA roles throughout the Department.

A major conclusion of the review was the potentially significant impact of releasing more information to ease the administrative burden that FOIA imposes on requesters and the Department.   Although the Department has made strides in this area, there is much more to be done. Establishing internal protocols to identify and post documents likely to be of public interest and appropriate for disclosure would preclude the need for numerous FOIA requests and the ensuing searches, document reviews, redactions, copying and fees. Making greater use of information technology advances would provide a cost-effective tool to facilitate the public's instant access to the information.

Similarly, the review underscored the untapped benefits of proactive disclosure through intra-agency collaboration that identifies current records of interest (e.g., grant and contract awards), redacts documents as needed, and posts them at ED's Electronic FOIA Reading Room. In addition, the Department could take advantage of its cutting edge FOIA processing software (FOIAXpress) to recognize and tag multiple requests for similar information, which along with the "rule-of-three", would enable the speedy proactive posting of releasable materials to the E-FOIA Reading Room. The review also pointed to the absence of systematic trend analyses that could assist in identifying and posting releasable information to the E-FOIA Reading Room.

The review also evaluated the Department's FOIA Website, which recently was re-designed to incorporate the requirements of the E-FOIA Amendments of 1996 (e.g., the handbook for requesters, the E-FOIA Reading Room, and on-line annual reports). The Department populated the FOIA home page with ED-specific materials and links to other important FOIA Websites; and the *ed.gov* home page includes a prominently displayed "FOIA" button for easy customer navigation and retrieval of FOIA information. The current user-friendly format and the benefits of ongoing information technology improvements offer additional advantages for upgrading the E-FOIA Reading Room to accommodate an increasing volume of information anticipated through the various improvement initiatives. The format and utilities of the website also provide outreach possibilities for customer feedback questionnaires, web-based FOIA status reports, and recent FOIA news.

The Department's FOIA process reengineering summarized earlier in this section integrated state-of-the-art technology and procedural efficiencies. The current review looked at the incremental efficiencies available through additional automation improvements, including expanding the functionality of FOIAXpress. Using FOIAXpress to track the process and prepare electronic responses transmitted to requesters via e-mail or the Internet would significantly reduce processing time and the associated administrative costs. In addition, use of specially configured CDs to ensure more secure and standardized response formats would provide further standardize the response process, saving time and resources, and improving quality control.

Since FOIA requests received by ED typically are processed in order of receipt, without regard to level of complexity, the review pinpointed significant performance strides available through the use of multi-track processing. Placing simple requests that require relatively minimal review in one processing track and more voluminous, complex requests in another track offers significant savings in processing and response time.

The review also looked at the Department's FOIA request backlog inventory (480)[5]. Coupling the need to reduce or eliminate the backlog to the electronic tracking system mentioned above could provide an efficiency measure absent from the current process -

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[5] As of June 2, 2006.

- informing requesters of the current status and providing options for more expeditious processing (e.g., limiting request areas). The tracking data could be used to analyze current cases to identify commonalities, enabling the FOIA team to focus on program records that would respond to the greatest number of open cases.

The Department's initial rollout for FOIAXpress was limited to headquarters. The current review addressed options for phasing in the software at the 12 OCR regional offices and transitioning this initiative with a pilot program at the San Francisco and Philadelphia location during 2006. Regional FOIA coordinators, program managers and Regional Directors have critical roles and responsibilities in processing and responding to FOIA requests, including disclosure decision-making. These regional staff require training on the use of FOIAXpress in order to process requests consistently, correctly and rapidly.   Implementing FOIAXpress as a pilot in these two field offices could provide lessons learned prior to fully implement the technology. Coupled with FOIA training at all regional offices would ensure that the Department adheres to a standardized FOIA program by using the same tools to deliver more uniform FOIA services.

At the Secretary's request, last year, the RIMS FOIA team developed and presented Department-wide stakeholder FOIA Awareness Training. Training materials, maintained by the FOIA Requester Service Center staff, are updated annually. In addition, the Department is currently developing a comprehensive Training and Outreach Plan. The Plan will include multiple levels of training for different audiences, and will link training subjects to specified user groups. As this program matures over the next several years, ED will develop and implement strategies that provide flexible options for FOIA training and retraining throughout the Department. The current review focused on the additional value of revising/updating the current Standard Operating Procedure (SOP) for the FOIA Requester Service Center and including a new reference section for Principal Office FOIA processing.

D.   LIST OF IMPROVEMENT AREAS

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Overall website improvement
- Automated processing – Electronic FOIA
- Multi-track processing
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

E.   EXPLANATION OF IMPROVEMENT AREAS

1.   Affirmative disclosure under subsection (a)(2)

Goal: Serve the interests of the public through the proactive release of information likely to be of widespread interest and ease the administrative processing burdens by reducing the need for requests submitted under the Freedom of Information Act.

Improvement Steps

- Develop internal protocols to identify, in advance, certain records or information that are likely to be of such interest to members of the public, and can be disclosed without concern for any FOIA exemption sensitivity. **To be completed by March 2007.**

- Increase use of electronic information technology to facilitate ready-access to information of interest to the public. **To be completed by March 2007.**

Measurements of Success

- Increased "views" (hits) on our E-FOIA Reading Room.

- Fewer manual packages needed to respond to requests by referring requesters to the E-FOIA Reading Room.

2.   Proactive Disclosure of Information

Goal: Make records available to the public on own initiative so that there is less likelihood that records will become the subjects of FOIA requests filed by persons who are interested in obtaining them.

Improvement Steps

- Identify grant and contract awards that are likely FOIA requests, redact them and have them posted on the ED Electronic FOIA Reading Room. **To be completed by March 2007.**

- Identify records that are likely to be of news media interest so that they can be made available in advance of a request through public affairs channels. Where there is no FOIA exemption sensitivity to such records,

they can be disclosed most efficiently through this non-FOIA channel once the news media interest in obtaining them is identified.
To be completed by March 2007.

- Develop operational mechanisms to increase intra-agency communication and coordination to determine potential records for posting.
To be completed by March 2007.

- Post documents within the ED Electronic FOIA Reading Room once the Department receives three similar requests for the same information ("rule-of-three").
To be completed by March 2007.

- Along with the "rule-of-three", use the FOIAXpress technology to assist in the identification of multiple requests for similar information and then proactively post the releasable materials in the E-FOIA Reading Room.
To be completed by March 2007.

- Implement consistent language to capture request descriptions and leveraging existing capability in FOIAXpress.
To be completed by December 2007.

- Track requests and identify trends on daily basis to determine the need for posting releasable information in the E-FOIA Reading Room.
To be completed by December 2007.

Measurements of Success

- Increased "views" (hits) on our E-FOIA Reading Room.

- Fewer manual packages needed to respond to requests by referring requesters to the E-FOIA Reading Room.

3. Overall Website Improvement

Goal: Implement web enhancements as a result of a review of its current structure.

Improvement Steps

- Update information on ED FOIA Website to reflect the designations described in Executive Order 13,392.
To be completed by December 2006.

- Redesign E-FOIA Reading Room to accommodate increased volume of information likely to be included based upon earlier recommendations.
To be completed by December 2007.

- Propose outreach possibilities using the Web; such as using the web for customer feedback questionnaires, web-based FOIA status reports, and recent FOIA news.
To be completed by December 2007.

<u>**Measurements of Success**</u>

- Increased "views" (hits) to the ED FOIA Website.

- Reduced number of calls indicating that ED FOIA Web information is confusing and/or not useful.

- Improved communication between the public and the FOIA Requester Service Center by leveraging the appropriate contacts to answer public inquiries.

4. **Electronic FOIA -- Automated Processing**

Goal: Improve the automation of FOIA submissions and tracking process by utilizing the full functionality of FOIAXpress. Use specialized CDs to respond electronically to requesters.

<u>**Improvement Steps**</u>

- Leverage the "status" capability within FOIAXpress to better recognize where a request is within the lifecycle.
To be completed by March 2007.

- Use FOIAXpress to deliver responses via email or the Internet.
To be completed by December 2007.

- Use form letters in Microsoft Word for standardized agency responses and any other authorized correspondence.
To be completed by December 2006.

- Develop a consistent protocol to determine the most user-friendly and cost effective use of CDs to respond to high volume responses.
To be completed by December 2007.

- Acquire and use specially configured CDs to ensure more secure and standardized response formats.
  To be completed by December 2007.

Measurements of Success

- Reduced number of inquiries made from the FOIA Requester Service Center processors to the Program Office FOIA Coordinators.

- Fewer requests directed to the wrong FOIA contact.

- Improved transmission of documents to requesters.

- Increased customer service.

- Improved quality control.

5. **Multi-Track Processing**

    Goal: Establish three tracks for processing FOIA requests.

    Improvement Steps

    - Develop and implement the following tracks:
      To be completed by March 2007.

        - *Track One – Simple requests (1-5 Workdays):* Implement process for "**Simple**" requests; those which do not have responsive documents to provide or those for which there are already records easily available from prior requests.

        - *Track Two- Normal requests (20 Workdays)*: Implement process for "**Normal**" requests; those that do not involve the location and/or redaction of a voluminous amount of records, nor do they require extensive consultation with other entities to respond.

        - *Track Three – Complex requests (Over 20 Workdays)*: Implement process for those "**Complex**" requests; those which involve the location and/or redaction of voluminous records and for which lengthy or numerous consultations are required, or those requests which may involve sensitive records. The Department will notify the requester that it has placed his/her request in the "Complex" track. The Department

may provide a requester filing a "Complex" request with an opportunity to limit the scope of the request. If a requester limits the scope of his/her request, it may result in faster processing.

Measurements of Success

- Average response time decreases.

- Average response time for "Simple" requests is less than the response time for the average of the "Normal" and "Complex" tracks (as a whole).

- Less confusion is reported by the Principal Office FOIA Coordinators regarding processing instructions.

6. **Backlog Reduction/Elimination**

   Goal: Institute a tracking system to delineate requests and inform requesters of the current status and options for more expeditious processing (e.g., limiting request areas).

   Improvement Steps

   - Analyze current open cases to identify commonalities. Use the results of the analysis to identify opportunities for responding to multiple requests. **To be completed by December 2006.**

   - Send status letters to all requesters with cases more than 30 days old. ED will inform the requesters that they have been identified as part of our backlog reduction effort. ED will reassure the requester that their case is still open and provide them with a status update. **To be completed by March 2007.**

   Measurements of Success

   - Fewer open cases at the end of each successive calendar year.

   - Improved timeliness of responses, either through closing of the request or communicating with the requester regarding the reasons their request may take more than the recommended 20 days to process.

   - Reduced administrative burden on the ED Principal Office FOIA Coordinators.

7. Improvement Ideas from Field Office Personnel

Goal: Implement FOIAXpress software in Office for Civil Rights Regional Offices.

Improvement Steps

- Pilot FOIAXpress in two OCR Regional Offices (San Francisco, CA and Philadelphia, PA).
  To be completed by July 2006.

- Implement FOIAXpress in remaining ten OCR Regional Offices.
  To be completed by May 2007.

Measurements of Success

- All reporting for the FOIA Annual Report is automated.

8. Training and Guidance

Goal: Develop a strategic outreach training/guidance program for all ED employees.

Improvement Steps

- Develop and issue a Standard Operating Procedure (SOP) that will include repeatable FOIA processing and guidance.
  To be completed by December 2006.

- Conduct quarterly training workshops for FOIA Coordinators.
  To be completed by August 2006 and Ongoing.

- Review/update Departmental Directive as needed.
  To be completed by December 2007.

- Develop performance standards for FOIA processing.
  To be completed by December 2008.

Measurements of Success

- Reduced administrative costs.

- Increased efficiency of FOIA processing.

- Increased quality control.

F.   Improvement Area Time Periods

Areas anticipated to be completed by December 31, 2006

- Overall website improvement
- Automated processing – Electronic FOIA
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

Areas anticipated to be completed by December 31, 2007

- Affirmative disclosure under subsection (a)(2)
- Proactive disclosure of information
- Overall website improvement
- Automated processing – Electronic FOIA
- Multi-track processing
- Backlog reduction/elimination
- Improvement ideas from field office personnel
- Training and guidance

Areas anticipated to be completed after December 31, 2007

- Training and guidance